



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

[PR/191/13/DD/183//13/DC/471/2016]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH  
RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF  
PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**In the matter of:**

**Shri Harish Maurya**  
139, Indira Colony,  
Bani Park,  
**JAIPUR – 302016.**

**-Vs.-**

**CA. Abhishek Saxena (M. No. 400964)**  
G-36, Tarun Path,  
Shyam Nagar,  
Opp. Dana Pani Restaurant,  
**JAIPUR – 302019.**

[PR/191/13/DD/183//13/DC/471/2016]

**MEMBERS PRESENT:**

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 05.02.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Abhishek Saxena (M. No. 400964)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 03<sup>rd</sup> May, 2019 was



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addressed to him thereby granting an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 15<sup>th</sup> May, 2019 at New Delhi.

3. Further, on 15<sup>th</sup> May, 2019, the Committee noted that the Respondent was not present and there was no representation from him on the findings of erstwhile Committee holding him Guilty of professional misconduct within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

4. The Committee noted that the charges against the Respondent is that the Oriental Bank of Commerce, Jaipur sanctioned working capital finance Rs.65.00 lacs to M/s. Venus Stones Pvt. Ltd (hereinafter referred as **the Company**) on the basis of the Audited Balance Sheet as on 31<sup>st</sup> March, 2009 and as on 31<sup>st</sup> October, 2009 certified by the Respondent. Later on when these credit facilities turned to NPAs, it was noticed that the Company had already been enjoying credit facilities to the tune of Rs. 25.00 lacs and adhoc facility Rs. 5.00 lakhs from Bank of Rajasthan, Johri Bazar, Jaipur. The Respondent failed to notice and report same in Audited Balance Sheets, while in fact both these facilities were being enjoyed by the Company since 9<sup>th</sup> August, 2008.

5. The Committee noted the above and in the absence of the Respondent, the Committee perused the papers on record and noted that Audit Report for year ending on 31/03/2009 certified by the Respondent is dated 21/09/2009, significant accounting policies are dated 21/09/2008. Further, profit & loss account is dated 12/06/2009 but Balance Sheet for year ending 31/03/2009 is undated. It is surprising to note different dates for the balance sheet, profit & loss account of the same financial year.

5.1 There is no compliance of CARO 2003 as the Company has borrowing from bank exceeding Rs. 10.00 lakhs. The Respondent also could not explain the reasons of all these shortcomings. Even, the Balance Sheet and profit & loss account for period ending on 31/10/2009 is without name, membership no. of signing partner i.e. the Respondent



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5.2 Looking into all these aspects, the Committee noted that the Respondent is grossly negligent in his professional duties as he has been one of the instrument to defraud a public sector bank. The Committee is pained to note the casual attitude of the Respondent as he neither appeared in Person nor made any written representation in spite of two opportunities provided to him on 09/04/2019 & 15/05/2019.

Keeping in mind all above aspects, the Committee hereby was of the view that the Respondent is grossly negligent in the conduct of his Professional duties.

6. In view of the facts and circumstances of the case and the material on record before it, the Committee ordered that the name of the Respondent i.e. CA. Abhishek Saxena (M. No. 400964) be removed from register of members for a period of 01 (one) year.

Sd/-  
(CA. ATUL KUMAR GUPTA)  
PRESIDING OFFICER

Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

Sd/-  
(CA. RAJENDRA KUMAR P)  
MEMBER

DATE : 15/05/2019

PLACE : New Delhi



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**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2018-2019)]**

**[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]**

**Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. :[PR/191/2013/DD/183/2013/DC/471/2016]**

**In the matter of:**

**Shri Harish Maurya**

139, Indira Colony

Bani Park

**Jaipur- 302 016**

**...Complainant**

*Versus*

**CA. Abhishek Saxena (M.No. 400964)**

B-76, Nand Puri Marg

Hawa Sadak

**Jaipur- 302 019**

**..... Respondent**

**MEMBERS PRESENT:**



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CA. Prafulla P. Chhajed, Presiding Officer  
CA. Amarjit Chopra, Government Nominee  
CA. Mangesh P. Kinare, Member

CA. Sushil Kumar Goyal, Member

DATE OF FINAL HEARING : 07.01.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Jaipur

**PARTIES PRESENT:**

Respondent : CA. Abhishek Saxena

**Charges in Brief:-**

1. Oriental Bank of Commerce, Jaipur sanctioned working capital finance Rs.65.00 lacs to M/s. Venus Stones Pvt. Ltd (hereinafter referred as **the Company**) on the basis of the Audited Balance Sheet as on 31<sup>st</sup> March, 2009 and as on 31<sup>st</sup> October, 2009 certified by the Respondent.

Later on when these credit facilities turned to NPAs, it was noticed that the Company had already been enjoying credit facilities to the tune of Rs. 25.00 lacs and adhoc facility Rs. 5.00 lakhs from Bank of Rajasthan, Johri Bazar, Jaipur. The Respondent failed to notice and report same in Audited Balance Sheets, while in fact both these facilities were being enjoyed by the Company since 9<sup>th</sup> August, 2008.



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**Brief facts of the Proceedings:**

2. The Committee noted that the Respondent was present and appeared before it. The Office apprised the Committee that there is no intimation from the Complainant for his presence but notice for this meeting has been duly served upon him as per speed post acknowledgement. Looking in the fact that this case is pending since 2013, the Committee decided to proceed ahead ex-parte the Complainant.

The Respondent was put on oath. The Office explained the charges. On being asked whether the Respondent pleads guilty, he replied in negative.

The Committee directed the Respondent to proceed ahead with his defence. The Respondent stated that he has no working papers relating to certification of loan facility granted to the Company by the Oriental Bank of Commerce.

The Committee perused papers on record and noted that Audit Report and Balance Sheet signed on different dates by the Respondent and that too, before signing Director's Report.

After recording the submissions of the Respondent, the Committee directed him to file his final submissions on the charges within 15 days time and concluded the case.

**Finding of the Committee**



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3. The Committee noted that the above charge of the Complainant as explained in para 1 above. The Committee also considered the written submissions of the Respondent dated 31/03/2014 in which he has stated as under:-

*“The captioned financial documents of the borrower for the year ending 31<sup>st</sup> March, 2009 have been prepared by him based on the current bank account of the borrower in Punjab National Bank, Jaipur. According to him, he was not having any information of the credit facility already been availed by the borrower and the financials submitted in ICICI Bank (Erstwhile The Bank of Rajasthan Limited) were not been audited and prepared by him”.*

Moreover, vide letter dated 31/05/2016, the Respondent submitted that :-

*The alleged certificate issued by the Bank dated 24.2.2010 was only a No Dues Certificate that issued by them clearly mentioning that “Nothing is outstanding against the Company” and he had management representation letter from the Company at the time of audit in which it was clearly informed that the Company had not taken any limit for any bank.*

3.1. After considering the charge and defence of the Respondent, the Committee perused the papers on record and noted that Audit Report for year ending on 31/03/2009 is dated 21/09/2009, significant accounting policies are dated 21/09/2008 font size altogether different. Further, profit & loss account is dated 12/06/2009 but Balance Sheet for year ending 31/03/2009 is undated.

3.2 The Director’s Report is very much after the date of Audit Report of the Respondent. There is no compliance of CARO 2003 as the Company has borrowing from bank exceeding Rs. 10.00 lakhs. The Respondent also could not explain the reasons of all these shortcomings.

3.3 The Balance Sheet and profit & loss account for period ending on 31/10/2009 is without name, membership no. of signing partner i.e. the Respondent.



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3.4 The Committee noted that the only defence of the Respondent in respect of these charges is that there is no due certificate from the bank and he has Management representation letter from the Company at the time of hearing. In this regard, the Committee observed that said certificate is dated 24/02/2010 and the Respondent has certified Financial Statements much before that certificate. Hence, in view of these facts, defence given by the Respondent has no relevance.

3.5 Further, the Complainant in complaint letter has clearly mentioned that these credit facilities were enjoyed by the Company since 09/08/2008. But the Respondent as Statutory Auditor could never find out any transactions in books of the Company in respect of the same.

3.6 In view of all above facts and record, the Committee was of the opinion that that the Respondent was very causal in certification of Financial Statements of the Company and he never adhered to compliance with generally accepted accounting policies issued by the ICAI time to time. The Respondent also clearly submitted before the Committee that he has no working papers/documents related to certification of Financial Statements of the Company.

In view of all the above facts, the Committee was of the view that the Respondent certified these Financial Statements to accommodate the Company in getting loan facilities for the Company.

3.7 However, the Committee still decided to give a chance to the Respondent and asked him to submit the reconciliation of Financial Statements as on 31/03/2009 and 31/10/2009 vis-a-vis bank statement and substantiate his stand.

3.8 Furthermore, in compliance of the direction of the Committee, the Respondent vide e-mail dated 18/01/2019 has submitted as under:-

*“As the related documents are more than 10 years old and the party whom they belong has closed the business and even the name has been struck off by MCA and are not in his contact since then, the obtaining of documents is taking time and also the firm in which he was partner*





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*has been dissolved 3-4 years back and the delay in obtaining documents is being observed, but he will surely get them shortly and then he will immediately submit these along with the reconciliation statements as required.*

*Therefore, he requested the esteemed members of the committee seeing the genuine causes of delay in submission, give him an opportunity of natural justice in submitting the same before esteemed office and oblige”.*

In view of above response of the Respondent, the Committee noted that he also failed to comply with directions of the Committee dated 07/01/2019 and could not produce any corroborated evidence to counter the charges of the Complainant.

3.9 On the basis of above and overall facts and evidences on record, the Committee construed that the Respondent is grossly negligent in performing professional duties as expected from a professional in view of applicable laws.

**Conclusion:**

4. Thus in conclusion, in the considered opinion of the Committee, the Respondent is held **GUILTY** of 'Professional Misconduct' falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountant Act 1949.

**Sd/-**  
**(CA. PRAFULLA P. CHHAJED)**  
**PRESIDING OFFICER**

**Sd/-**  
**(CA. AMARJIT CHOPRA)**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(CA. MANGESH P. KINARE)**  
**MEMBER**



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**Sd/-**

**(CA. SUSHIL KUMAR GOYAL)**

**MEMBER**

**DATE : 05<sup>th</sup> February, 2019**

**PLACE : New Delhi**